

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 15662 of the D.C. Department of Housing and Community Development, pursuant to 11 DCMR 3108.1, for a special exception under Section 1906 to allow an exception from the ARTS District requirement that retail and service uses, and arts and arts related uses shall occupy no less than 50 percent of the ground level (Subsection 1901.1) for construction of a structure with 100 percent office use in a CR/ARTS District at premises 1920 14th Street, N.W. (Square 205, Lots 817 and 818).

HEARING DATE: June 10, 1992
DECISION DATE: July 1, 1992

ORDER

SUMMARY OF EVIDENCE OF RECORD:

1. The subject property is located on the west side of 14th Street between T and U Streets and is known as premises 1920 14th Street, N.W. It is located in a CR/ARTS District.

2. The property is topographically level and rectangular in shape with a frontage of 55.66 feet along 14th Street and a depth of 138.667 feet for a total lot area of 7,569 square feet. The site is currently undeveloped and is surrounded by a chain link fence.

3. The site is located approximately one block south of U Street within the Cardozo neighborhood of Ward One. The area surrounding the site is diverse in character and is currently undergoing revitalization in terms of the refurbishing of existing residences, the establishment of new commercial businesses in the area, and government incentives to retain existing businesses in the area. The Reeves Center, a D.C. government office building occupying approximately one-half of Square 204 at 2000 14th Street, was completed in 1985. The U Street/Cardozo Metrorail Station was completed in 1991.

4. The United Supreme Council, Thirty-third Degree, Ancient and Accepted Scottish Rite of Freemasonry, Southern Jurisdiction, USA, Prince Hall Affiliation (hereinafter referred to as the "Council") is a nonprofit fraternal organization incorporated in the District of Columbia in 1920. The Council was established in 1886 and is an integral part of the Prince Hall Masonic family which dates back to 1775.

5. The Council is a predominantly black organization which draws its membership of approximately 30,000 from 20 states south of the Mason-Dixon Line and the District of Columbia. The Council is a benevolent organization and makes annual contributions to a variety of charitable organizations, scholarship funds and research projects to benefit District of Columbia residents. The Council has had a strong presence in the U Street area for many years, including a facility at 1000 U Street, N.W., as well as other locations throughout the city.

6. The Council's national headquarters is currently located at 33 K Street, N.W. The Council wishes to retain its headquarters location in the District of Columbia. It began negotiations with the District of Columbia government to purchase the subject site for the construction of its national headquarters in September of 1989. At that point in time, the property was zoned C-M-2 and the Council proposed to build a two-story structure with 100 percent office use. Under the then-existing C-M-2 zoning, that proposed project could proceed as a matter-of-right.

7. In February 1990, the Zoning Commission changed the zoning of the subject site, as outlined in Z.C. Order No. 632, from C-M-2 to CR/ARTS. The CR District and the Arts Overlay District together constitute the current zoning of the subject site.

8. The ARTS Overlay District applies to commercial and mixed-use districts located in certain squares specified in Z.C. Order No. 632. The purposes of the ARTS Overlay District are outlined as follows:

- a. To bring the arts-zoned areas into compliance with the Comprehensive Plan;
- b. To require uses that encourage pedestrian activity, especially retail, entertainment and residential uses;
- c. To provide for an increased presence and integration of the arts and related cultural and arts-related support uses;
- d. To expand the area's housing supply in a variety of rent and price ranges;
- e. To expand business and job opportunities and encourage development of residential and commercial buildings;
- f. To strengthen the design character and identity of the area by means of physical design standards;
- g. To encourage adaptive reuse of older buildings in the area and an attractive combination of new and old buildings; and,

h. To foster 18-hour activity and increased public safety.

9. The applicant is seeking special exception relief pursuant to 11 DCMR 1906 to allow for the construction of the headquarters building for the Council at the subject site. The proposed building would be three stories in height with approximately 4,539 square feet per floor for a total floor area of approximately 13,789 square feet plus basement. The building would extend the combined width of the lots or 55.66 feet. Parking for seven automobiles would be provided at the rear of the site. The parking spaces would be accessible from the 30-foot wide public alley at the rear of the site.

10. The CR District permits matter-of-right residential, commercial and certain light industrial development to a maximum height of 90 feet, a maximum floor area ratio of 6.0 for residential and 3.0 for other permitted uses, and a maximum lot occupancy of 75 percent for residential uses. The ARTS Overlay District provides that no less than 50 percent of the ground level of each building on a lot that is 50 feet or more in width and fronts on 14th Street shall be occupied by retail and services uses or arts and arts-related uses. The proposed structure complies with all of the area requirements of the CR District. However, the Council proposes to devote less than 50 percent of the ground floor area to such uses and is, therefore, seeking a special exception pursuant to 11 DCMR 1906.1.

11. Exceptions to the provisions of the ARTS Overlay District are permitted pursuant to Board approval subject to the following criteria:

a. The use(s), building(s) or feature(s) at the size, location and intensity and location(s) proposed, will substantially advance the stated purposes of the Arts Overlay District and will not adversely affect neighboring property or be detrimental to the health, safety, convenience or general welfare of persons living, working, or visiting in the area;

b. Exceptional circumstances affecting the property make compliance with the requirements of this chapter difficult or impossible, or the development provides alternate public benefits, in lieu of the excepted uses or features, that are of comparable value to the public in achieving the purposes of this chapter and of the Comprehensive Plan;

c. The architectural design concept of the project will enhance the urban design features of the immediate vicinity in which it is located; provided that if a historic district or historic landmark is involved, the Board shall refer the application to the State Historic Preservation Officer for review and report;

d. Vehicular access and egress are located and designed so as to minimize conflict with principal pedestrian ways to function efficiently, and to create no dangerous or otherwise objectionable traffic conditions; and

e. The Board may impose requirements pertaining to design appearance, signs, size, landscaping and other such requirements as it shall deem necessary to protect neighboring property and to achieve the purposes of the Arts Overlay District.

12. Prior to the public hearing on the application, the Council, in order to address the issues and concerns expressed by the Advisory Neighborhood Commission, community members, and the Office of Planning, revised its originally submitted plans to include museum/art gallery uses on the ground floor of the structure and redesigned the structure to incorporate arts-related embellishments on the facade of the structure.

13. The facade of the structure was revised to include a two-story window incorporating the Masonic logo and street-level window display space to make the ground floor museum/art gallery uses visually available to pedestrian traffic. The ground floor area of the structure was reconfigured to devote approximately 1,350 square feet for museum/art gallery uses. In addition, a conference room which was originally proposed to occupy a portion of the third floor was relocated to the ground floor level and proposed administrative and operational functions originally located on the ground floor were moved to the upper floors. A representative of the Council testified at the public hearing that the proposed museum/art gallery space would constitute approximately one-third of the ground floor area.

14. The Council's representative further testified that, because of the nature of the operations of the Council's headquarters offices and the need to store records relative to its membership at the site, it would not be conducive to share space with retail-type operations. In addition, due to the financial constraints of the organization, the Council would be unable to achieve its goals of providing adequate and efficient office space in the structure if it were required to dedicate 50 percent of the ground floor area to activities that are not related to the Council. Financial and design constraints also combine to make it impractical for the Council to construct a fourth story on the proposed structure in order to provide additional office space.

15. The Council's representative testified that the location of its headquarters at the subject site would advance the goals of the ARTS Overlay District as follows:

a. The location of the museum/gallery space on the ground floor will encourage pedestrian activity in the area through both actual and visual access to the museum and art gallery space.

b. The location of the headquarters facility at the subject site will encourage tourism activities in the area in that it will attract members of the Masonic brotherhood from other areas of the country.

c. The retention of the headquarters facility in the city will ensure continued employment of D.C. residents, as well as, provide community services through its continued charitable activities and the availability of meeting space for community groups.

d. While the facility will generally only be open from 9:00 a.m. to 6:00 p.m., the use will foster evening activity during its special events and evening meetings.

e. The construction of the proposed structure will enhance the physical appearance of the area, provide a viable activity base, and attract additional development to contribute to the revitalization of the area.

f. The design of the facility will enhance the physical character of the area.

16. Access to the seven on-site parking spaces is through a 30-foot wide public alley at the rear of the site. This access will not interfere with existing vehicular and pedestrian traffic along 14th Street.

17. The Office of Planning, by memorandum dated June 3, 1992, and by representative at the public hearing, recommended conditional approval of the application. The Office of Planning recommended the inclusion of arts or arts-related use on the ground floor of the structure and arts-related embellishments on the facade of the structure. The Office of Planning was of the opinion that the proposed development, as revised, would contribute substantially to the advancement of the stated purpose of the ARTS Overlay District, and would contribute to the neighborhood's revitalization effort through the enhancement of an important location in the 14th and U Street area. The OP was further of the opinion that the project would not adversely affect the use of neighboring property, and would be in harmony with the general purpose and intent of the Zoning Regulations and Map.

18. The D.C. Department of Public Works (DPW), by memorandum dated June 8, 1992, offered no objection to the application. The DPW evaluated the project in terms of available mass transit

services and the parking needs for the project. The DPW noted that the site is well-served by public transit. Both 14th Street and U Street are major metrobus corridors to downtown and crosstown. In addition the U Street/Cardozo Metrorail Station west entrance at 13th and U Streets is approximately 300 feet from the site. The DPW noted that the applicant proposes to provide on-site parking as required by the Zoning Regulations and that short-term, on-street, metered parking is available on both 14th Street and U Street adjacent to the site. The DPW was of the opinion that the project can be accommodated with little or no adverse impact on the residential neighborhood and would not result in any adverse impact from a transportation standpoint.

19. The Metropolitan Police Department (MPD), by letter dated March 27, 1992, offered no objection to the application. The MPD was of the opinion that the project would not generate an increase in the level of police services currently provided.

20. The Department of Finance and Revenue, by memorandum dated April 24, 1992, offered no objection to the subject application.

21. By letter dated March 3, 1992, the Secretary, Redevelopment Land Agency (RLA), indicated that the RLA Board of Directors, after public hearing on the matter, voted to accept the Council's development proposal and authorized execution of the Land Disposition Agreement. In addition, the RLA requested that the Board expedite review of the subject application due to the desire of RLA and the District of Columbia to continue economic development activities in the area and its desire to advance construction projects that would be of benefit to the community.

22. By representatives at the public hearing, Advisory Neighborhood Commission 1B (ANC 1B) indicated that although the applicant met with the ANC and the community on several occasions, the ANC was unable to take an official position on the case because it did not have a quorum.

23. By letter dated May 31, 1992, the Single Member District Commissioner for ANC 1B01 recommended that the application be denied. The SMD Commissioner offered the following concerns in support of his recommendation:

- a. The lack of commercial space will contribute to the creation of a street traffic "dead zone" in this block.
- b. The provision of five on-site parking spaces will not comply with the requirements of the Zoning Regulations and would contribute to an existing tight parking situation in the area.

c. The project could set an unwelcomed precedent that other developers will cite in attempts to gain exceptions from the requirement for commercial space in the ARTS Overlay District.

d. The special exception, once granted, will be conveyed with the building and lot regardless of whether the Council will continue to own and occupy the structure.

The SMD Commissioner further requested that the Board leave the record open after the public hearing in order to incorporate a formal ANC position into the record if the ANC is able to obtain a quorum for purposes of taking an official position on the case.

24. By letter dated June 10, 1992, the Single Member District Commissioner for ANC 1B09 supported the granting of the application. The SMD Commissioner was of the opinion that the case is unique for the following reasons:

a. The Council's reputation in the community, the city and the nation is impeccable. Institutions of this type should be sought out to be established in the community.

b. The city, specifically the Redevelopment Land Agency, failed this institution because of the delay in completing the process. Had the process been completed 12 to 18 months sooner, the applicant would not currently be seeking zoning relief.

The SMD Commissioner recommended that approval of the application be conditioned so that should the Council vacate the structure in the future, the next owner would be required to comply with the criteria for the ARTS Overlay District in order to address the concern expressed by community members.

25. By letter dated June 3, 1992, Councilmember John Ray supported the granting of the application. Councilmember Ray noted that the Council is one of the oldest organizations in the country; that its work in the community includes high school scholarship programs, college grants, and research grants. He also noted that the project will create jobs for those in the community during the construction phase and after the building is completed.

26. By letter dated June 9, 1992, Councilmember Frank Smith, Jr. supported the granting of the application. Councilmember Smith endorsed the project as an asset for the economic development and neighborhood revitalization of the 14th and U Street area. Councilmember Smith was of the opinion that the design of the project, including the window treatment on the facade of the

building, would enhance the area. In addition, Councilmember Smith noted that the project will provide benefits in terms of employment and tax revenues, as well as the charitable contributions of the organization.

27. The record contains letters in opposition to the application from the 14th and T Club and the 14th and S Club. In addition, a representative of the D.C. Neighborhood Partnership and Columbia Heights Neighborhood Coalition, as well as several area residents, testified in opposition to the case at the public hearing. The opposition is generally summarized as follows:

- a. Adequate notice was not provided to property owners and residents within 200 feet of the subject site.
- b. The applicant's revised plans were not submitted in a timely manner to ensure an adequate opportunity for the public to review the file and any changes to the originally filed plans. In addition, the applicant did not inform the community of the revisions to the project prior to the public hearing on the case.
- c. The Council has not made its formal proposal to the RLA available to the Board or the community.
- d. The application was advertised and heard as a special exception even though the referral from the Zoning Administrator's Office cites the need for variance relief. The applicant is unable to meet the burden of proof necessary for variance relief and has made no direct request for special exception relief.
- e. The proposal does not meet the criteria for special exception relief set forth in 11 DCMR 1906 in that it does not encourage a mixture of building uses; does not encourage pedestrian activity, especially retail, entertainment, and residential uses; does not provide for an increased presence and integration of the arts and related cultural and arts-related support uses; it does not expand housing; it does not expand business and job opportunities; it conflicts with the design character and identity of the area; and it does not foster 18-hour activity and increased public safety.
- f. There are no exceptional circumstances regarding the property that make it impossible to provide retail or arts space on the first floor.
- g. The development provides benefits exclusively to the Masonic organization and not the general public.

h. The location of a nonprofit organization at the subject site will not result in any benefits such as increased tax revenues or additional permanent jobs.

i. The facade of the proposed structure is out of keeping with the character of the neighborhood which is generally Victorian in architectural style.

j. The applicant's originally submitted plans indicate that only five on-site parking spaces will be provided instead of six as required by the Zoning Regulations. In addition, the plans do not indicate that a fire lane will be provided.

28. At the conclusion of the public hearing, the Board left the record open for the applicant to submit a management plan for the proposed arts uses and for Advisory Neighborhood Commission 1B to file its formal report.

29. By submission dated June 17, 1992, the applicant submitted its proposal for the use of 35 percent of the ground floor area for museum/art gallery use.

30. By letter dated June 17, 1992, Advisory Neighborhood Commission 1B submitted its formal position on the application. ANC 1B supported the application with the following conditions:

a. Not less than 30 percent of the net floor area of the ground floor shall be allocated for use as either a public art gallery or a museum.

b. The Masons shall document all details pertaining to the museum or art gallery regarding its mission, operation, and management.

31. The D.C. Neighborhood Partnership, in its submission dated June 25, 1992, responded to the applicant's proposed plans as follows:

a. The plan which purports to show that 35 percent of the ground floor area is devoted to museum/art gallery use give room dimensions which total less than 30 percent of the net ground floor area.

b. The proposal dealing with the art gallery portion of the ground floor area indicates that the space may be leased to the Ellington Fund and the D.C. Arts Center. The opposition was unable to obtain any information regarding the Ellington Fund. In addition, the record does not contain any letter of agreement between the applicant and the Ellington Fund and/or D.C. Arts Center.

FINDINGS OF FACT:

1. The Board finds that the applicant's proposal satisfies the criteria set forth in 11 DCMR 1906.

2. With respect to the issue of notice, staff review indicates that the owners of addresses cited by the opposition as not having received proper notice were located in excess of 200 feet from the subject site. In addition, staff noted that notice is mailed to the owners of the properties within 200 feet of the site, not to the individual tenants or residents of structures within the 200 foot distance from the site.

3. The applicant submitted the revised plans 14 days in advance of the public hearing as required by the Board's Rules. Any information submitted to the record is available for public review.

4. The formal proposal made by the Council to the Redevelopment Land Agency is a separate process which is not within the purview of the Board of Zoning Adjustment.

5. Although the initial referral of the application to the Board indicated that variance relief was required, staff review prior to the issuance of public notice revealed that special exception relief was more appropriate. The Zoning Administrator's Office concurred with the staff's assessment of the appropriate relief required in the instant case.

6. The Board does not concur with the opposition's assertion that the application does not meet the applicable special exception criteria. The Board finds that the proposed use, with the inclusion of the museum/art gallery uses on the ground floor will encourage pedestrian activity and provide an increased presence of arts related and cultural uses in the area. The proposed use does not expand housing in the area, but does provide business and job opportunities during the construction phase and thereafter. The Board further finds that although the facility does not provide 18-hour activity at the site on a daily basis, the nature of the operation does provide for an extended presence due to the scheduling of meetings, convocations, conventions, and special museum/art gallery events.

7. The Board finds that the proposed facility provides benefits to the general public in that the subject organization provides charitable and benevolent benefits to the community as a whole; the use of the site will result in increased property and income tax revenues; the facility will provide for employment opportunities for District residents; the establishment of an art gallery and Masonic museum will reflect the cultural diversity and historic contributions made to the community by the Masonic

organization. Additionally, conference areas will be made available for community use.

8. The Board finds that the design of the structure, including the facade treatment, is an excellent treatment in keeping with the architectural character of the area. Although the proposed structure does not match the Victorian style of nearby residential structures, it represents a significant opportunity to incorporate a eye-catching structure in an area in which additional construction and revitalization efforts are actively being sought.

9. The Board finds that the applicant is providing on-site parking in excess of that required by the Zoning Regulations. In addition, the Board notes that the D.C. Department of Public Works has no objection to the parking layout proposed by the applicant.

10. The Board finds that the property is affected by exceptional circumstances due to the change in zoning which occurred subsequent to the Council's initial plans to develop the site for its headquarters office. The Board finds that the applicant has made a significant effort to revise its initial proposal in order to address the community's concerns and to comply with the provisions of the ARTS Overlay District while attempting to retain efficient and reasonable space to address its needs with respect to providing adequate and effective headquarters office space for the organization on a small site and with limited funds.

CONCLUSIONS OF LAW AND OPINION;

Based on the foregoing findings of fact and the evidence of record, the Board concludes that the applicant is seeking a special exception, the granting of which requires that the proposal meets the requirements set forth in 11 DCMR 1906 and 3108.1, that the relief requested can be granted as being in harmony with the general purpose and intent of the Zoning Regulations, and that the relief will not tend to affect adversely the use of neighboring property. The Board concludes that the applicant has met the requisite burden of proof as set forth in the preceding findings of fact.

The Board further concludes that the special exception will be in harmony with the general intent and purpose of the Zoning Regulations and Map and, as hereinafter conditioned, will not tend to adversely affect the use of neighboring property in accordance with the Zoning Regulations and Map. The Board further concludes that it has afforded the Advisory Neighborhood Commission the "great weight" to which it is entitled. Accordingly it is hereby ORDERED that the application is GRANTED, SUBJECT to the following CONDITIONS:


1. The applicant shall devote 35 percent of the net ground floor space to museum, art gallery or retail space as set forth in Exhibit No. 35 of the record.

2. The applicant shall provide a separate entrance with direct access from 14th Street to the art galley or retail space as contained in Exhibit No. 35A of the record.

VOTE: 3-0 (Angel F. Clarens, John G. Parsons, and Paula L. Jewell to grant; Sheri M. Pruitt not present, not voting; Carrie L. Thornhill not voting, not having heard the case).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


MADELIENE H. ROBINSON
Acting Director

FINAL DATE OF ORDER: JAN 8 1993

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



BZA APPLICATION NO. 15662

As Acting Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on JAN 8 1993 a copy of the order entered on that date in this matter was mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Andrew D. Bryant
Bryant & Associates
1420 N Street, N.W., #100
Washington, D.C. 20005

Manuel R. Geraldo, Esquire
1316 Penn. Ave., S.E.
Washington, D.C. 20003

Charles F. Bates
1521 C Street, S.E.
Washington, D.C. 20003

Phyliss Stewart Thompson
1316 Columbia Road, N.W.
Washington, D.C. 20009

Dorothy A. Brizill
DC Neighborhood Partnership
1327 Girard Street, N.W.
Washington, D.C. 20009

Peter Brehm
1515 Caroline Street, N.W.
Washington, D.C. 20009

Ron Renchard
1847 14th Street, N.W.
Washington, D.C. 20009

G. Tom Coumaris
1413 S Street, N.W.
Washington, D.C. 20009

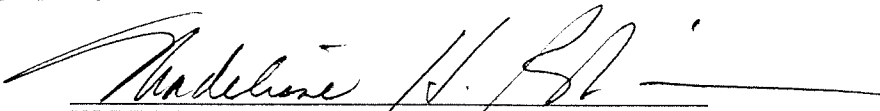
Matthew Ellis, Jr.
242 Peabody Street, N.W.
Washington, D.C. 20011

Aubrey E. Ballard
206 Warburton Oaks
Ft. Washington, Md 20744

Donald Vowels
1404 24th Place, S.E.
Washington, D.C. 20020

C.E. Howard, Jr.
2217 13th Street, N.W.
Washington, D.C. 20009

Mary Treadwell, Chairperson
Advisory Neighborhood Commission 1-B
P.O. Box 73710
Washington, D.C. 20056-3710


MADELIENE H. ROBINSON
Acting Director

DATE: JAN 8 1993

15662Att/bhs